

Remarks

The December 5, 2003 Official Action has been carefully reviewed. In view of the amendments submitted herewith and the following remarks, favorable reconsideration and allowance of this application are respectfully requested.

At the outset it is noted that a shortened statutory response period of three (3) months was set forth in the December 5, 2003 Official Action. Therefore, the initial due date for response is March 5, 2003.

At page 2 of the Official Action, the Examiner has rejected claims 1, 7, 10-17, and 26 as allegedly failing to satisfy the written description requirement under 35 U.S.C. §112, first paragraph.

The Examiner has also suggested that non-elected claim 25 be cancelled to avoid paying extension fees for amendment cancellation. Accordingly, Applicants have cancelled claim 25.

Additionally, the Examiner has indicated at page 1 of the Official Action that claims 4-6 have been objected to. This objection to claims 4-6 is not discussed elsewhere in the Official Action. Applicants are left to assume that the basis of the objection is that the claims are dependent on a rejected claim. Applicants submit that claim 1 has been amended such that it is in condition for allowance and, therefore, this objection is overcome.

The foregoing rejection and objection constitute all of the grounds set forth in the December 5, 2003 Official Action for refusing the present application.

For clarity purposes, Applicants have amended claims 5 and 6 to refer to a "SEQ ID NO:" rather than "Sequence I.D. No." Applicants have also amended claim 26 to more explicitly recite the method step of the claimed method and to depend from claim 17 instead of claim 1. Support for the amendment can be found, for example, at claim 17; page 10, lines 16-22; page 26, line 19 - page 28, line 35; and Examples 2 and 3.

No new matter has been introduced into this application by reason of any of the amendments presented herewith. Moreover, none of the present claim amendments is believed to constitute a surrender of any originally claimed subject matter, or a narrowing of the claims in order to establish patentability. The effect of these amendments is merely to make explicit that which was implicit in the claims as originally worded.

**CLAIMS 1, AS AMENDED, AND CLAIMS 7, 10-17, AND 26 SATISFY THE
WRITTEN DESCRIPTION REQUIREMENT UNDER 35 U.S.C. §112, FIRST
PARAGRAPH**

The Examiner has rejected claims 1, 7, 10-17, and 26 as allegedly failing to satisfy the written description requirement under 35 U.S.C. §112, first paragraph. Specifically, the Examiner objects to the term "C5a responsive selective agonist." It is the Examiner's position that the specification does not describe a subgenus of C5a receptor "selective agonists," but rather the specification only describes the C5a targeting ligands of original claim 4.

Applicants continue to disagree with the Examiner's position. Applicants submit that the specification adequately conveys to a skilled artisan the concept of a C5a receptor "selective agonist" at, for example, page 12, line 19 through page 13, line 21, for the reasons set forth in the response filed on April 2, 2003. However, in an effort to expedite the issuance of the instant application, Applicants have amended claim 1 and claims dependent therefrom to replace the term "C5a responsive selective agonist" with the term "targeting ligand." Applicants submit this amendment restores original claim language to the claims and therefore should not be found objectionable by the Examiner. In addition, Applicants have also amended claim 1 to recite that the targeting ligand binds specifically to a C5a receptor. Support for this language can

be found in original claims 2 and 3 and at page 13, lines 16-21 of the specification. Inasmuch as the claims maintain the requirement for specific binding of the C5a receptor, Applicants submit the claims continue to be allowable over the prior art of record.

In the rejection of claims 1, 7, 10-17, and 26 for allegedly failing to meet the written description requirement, the Examiner also asserts that the only "selective agonists ... related to C5a were those recited in original claims 4-6." Applicants strenuously disagree with the Examiner. Two types of targeting ligands are described in original claim 4: 1) C5a and 2) peptide agonist analog of C5a comprising the C-terminal ten residues of C5a. However, at page 17, line 34 through page 18, line 4, the specification discloses that "C-terminal C5a agonist analogs capable of C5a receptor binding and signal transduction" are targeting ligands of the instant invention. Furthermore, the specification notes that these C-terminal C5a agonist analogs are described in U.S. Application 08/299,285 (now U.S. Patent 5,696,230), which was incorporated into the instant application by reference. In U.S. Patent 5,696,320, the C-terminal C5a agonist analogs are described as oligopeptide analogs of a C5a carboxy terminus which can bind C5a receptor and elicit at least one biological effect (see col. 4, lines 25-32 and claim 1). Examples of the C-terminal C5a agonist analogs are provided, for example, at column 5, lines 6-51. Inasmuch as the C-terminal C5a agonist analogs do not necessarily comprise the "the C-terminal ten residues of C5a" as required by original claim 4, these targeting ligands were not specifically encompassed by original claims 4-6.

Thus, Applicants submit that amending claim 1 to recite the C5a agonists in original claim 4 would be unduly limiting. However, Applicants have amended claim 1 to recite that the targeting ligand is selected from the group consisting of: C5a, a peptide agonist analog of C5a comprising

the C-terminal ten residues of C5a, and a C-terminal C5a agonist analog. Support for this amendment can be found at original claim 4 and at page 17, line 34 through page 18, line 4.

In light of all of the forgoing, Applicants respectfully request the rejection of claims 1, 7, 10-17, and 26 under 35 U.S.C. §112, first paragraph be withdrawn.

CONCLUSION

In view of the amendments presented herewith, and the foregoing remarks, it is respectfully urged that the rejections set forth in the December 5, 2003 Official Action be withdrawn and that this application be passed to issue.

It is respectfully requested that the amendments presented herewith be entered in this application, since the amendments are primarily formal, rather than substantive in nature. This amendment is believed to clearly place the pending claims in condition for allowance. These amendments were not presented earlier largely because the December 5, 2003 Official Action was the first time the Examiner set forth the instant written description rejection. In any event, the claims as presently amended are believed to eliminate certain issues and better define other issues which would be raised on appeal, should an appeal be necessary in this case.

In the event the Examiner is not persuaded as to the allowability of any claim, and it appears that any outstanding issues may be resolved through a telephone interview, the Examiner is requested to telephone the undersigned attorney at the phone number give below.

Respectfully submitted,
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